IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3280 OF 2006.
IN
FIRST APPEAL NO. 1789 OF 2006.

The State of Maharashtra. ... Applicant.
Versus.
Gangabai Ambo Gharat
(deceased through LRs.)
1/1. Gurunath Ambo Patil & ors. ... Respondents.

Shri S.N.Gawade, A.G.P. for the Applicant.
Shri Sachin S.Punde for the Respondents.

CORAM : ABHAY S.OKA, J.
DATED : 1st August, 2006.

P.C.:

1. Rule. The Respondents waive service. Taken up for hearing forthwith.

2. Challenge in the First Appeal is to the award under section 28-A(3) of the Land Acquisition Act 1894. The acquisition is in respect of land situated at village Taloja, Taluka Panvel, District Raigad under Notification dated 3rd February 1970 for the purpose of New Bombay Project. There are decisions of the Division Bench of this Court which have attained finality. In the said decision the market value at the rate ranging between Rs.17/- to Rs.23/- per sq.meter have been awarded to various lands at the village Taloja which were notified for acquisition by the Notification dated 3rd February 1970. Therefore, this is a case where the Claimants will have to be permitted to withdraw certain amount without furnishing any security as market value awarded under the impugned Judgment and Award is Rs.25/- per sq.meter. One of the said decisions is in the case of Abdul Aziz Husenmiya Patel v/s. The Special Land

Acquisiton Officer (First Appeal No.875 of 1985 and other connected Appeals) decided on 16th March 2000.

3. Hence the Civil Application is disposed of by passing the following order:

i) There will be interim relief in terms of prayer clause (b) subject to the Applicant depositing the entire amount due and payable under the impugned Judgment and Award with the Reference Court within a period of 12 weeks from today.

ii) The original Claimants will be entitled to withdraw 50% of the said amount subject filing an undertaking before the Reference Court to bring back the said amount with reasonable interest in the event of the Applicant succeeding in the First Appeal.

iii) The remaining amount is permitted to be withdrawn by the Claimants subject to furnishing adequate security to the satisfaction of the Reference Court.

iv) There will be no order as to costs.

Judge.